

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BACKGRID USA, INC., a California
corporation,

Plaintiff,

v.

COX MEDIA GROUP, LLC, and COX
RADIO, INC.,

Defendants.

CIVIL ACTION FILE
NO.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, BackGrid USA, Inc. (“BackGrid”) complains against Defendants Cox Media Group, LLC (“Cox Media”), and Cox Radio, Inc. (“Cox Radio”) (collectively, “Cox”) as follows:

JURISDICTION AND VENUE

1.

This is a civil action for copyright infringement under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction under 28 U.S. C. § 1331, 28 U.S.C. § 1332, 17 U.S.C. § 501(a), and 28 U.S.C. § 1338(a) and (b).

2.

This Court has personal jurisdiction over Cox Media and Cox Radio.

3.

Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(a) in that the claim arises in this judicial district, and Cox Media and Cox Radio may be found and transact business in this judicial district.

PARTIES

4.

BackGrid is a California corporation existing under the laws of California, with its principal place of business located in Redondo Beach, California.

5.

BackGrid alleges on information and belief that Defendant Cox Media is a Delaware corporation with its principal place of business in Atlanta, Georgia.

6.

BackGrid alleges on information and belief that Defendant Cox Radio is a Delaware corporation with its principal place of business in Atlanta, Georgia.

FACTS COMMON TO ALL COUNTS

BackGrid and the Relevant Copyrighted Photographs

7.

BackGrid owns and operates one of Hollywood's largest celebrity-photograph agencies and has earned a reputation of regularly breaking scoops on sought after celebrity news. It owns the intellectual property rights, including the copyrights, to celebrity photographs that have been licensed to numerous top-tier outlets, such as TMZ, Entertainment Tonight, New York Post, People Magazine, Huffington Post, the Daily Mail, as well as many television stations, newspapers and other prominent media outlets throughout the world. Each license has been granted for valuable consideration, up to hundreds of thousands of dollars.

8.

Among many other in-demand photographs, BackGrid owns photographs of well-known celebrities such as Taylor Swift, Sam Hunt, Blake Shelton, Gwen

Stefani, Selena Gomez, and Justin Bieber.

9.

A copy of BackGrid's Copyright Registration Number VA0002078340, for a collection of photographs of Taylor Swift, is attached as Exhibit A.

10.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002078340 is attached as Exhibit B.

11.

A copy of BackGrid's Copyright Registration Number VA0002050055, for a collection of photographs of Selena Gomez and The Weeknd first seen in public together as a couple, is attached as Exhibit C.

12.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002050055 is attached as Exhibit D.

13.

A copy of BackGrid's Copyright Registration Number VA0002050271, for a collection of photographs of Hannah Lee Fowler at her wedding to Sam Hunt, is attached as Exhibit E.

14.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002050271 is attached as Exhibit F.

15.

A copy of BackGrid's Copyright Registration Number VA0002066791, for a collection of photographs of Gwen Stefani and Blake Shelton, is attached as Exhibit G.

16.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002066791 is attached as Exhibit H.

17.

A copy of BackGrid's Copyright Registration Number VA0002086933, for a collection of photographs of Selena Gomez and Justin Bieber, is attached as Exhibit I.

18.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002086933 is attached as Exhibit J.

19.

A copy of BackGrid's Copyright Registration Number VA0002020213, for a collection of photographs of Taylor Swift and Tom Hiddleston, is attached as Exhibit K.

20.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002020213 is attached as Exhibit L.

21.

A copy of BackGrid's Copyright Registration Number VA0002049672, for a collection of photographs of Rihanna wearing denim, is attached as Exhibit M.

22.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002049672 is attached as Exhibit N.

23.

A copy of BackGrid's Copyright Registration Number VA0002050264, for

a collection of photographs of Rihanna wearing a red heart, is attached as Exhibit O.

24.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002050264 is attached as Exhibit P.

25.

A copy of BackGrid's Copyright Registration Number VA0002050308, for a collection of photographs of Katy Perry dressed as Hillary Clinton, is attached as Exhibit Q.

26.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002050308 is attached as Exhibit R.

27.

A copy of BackGrid's Copyright Registration Number VA0002058261, for a collection of photographs of Kylie Jenner, is attached as Exhibit S.

28.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002058261 is attached as Exhibit T.

29.

A copy of BackGrid's Copyright Registration Number VA0002069876, for a collection of photographs of Amber Rose and 21 Savage, is attached as Exhibit U.

30.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002069876 is attached as Exhibit V.

31.

A copy of BackGrid's Copyright Registration Number VA0002084015, for a collection of photographs of Selena Gomez and The Weeknd at a grocery store, is attached as Exhibit W.

32.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002084015 is attached as Exhibit X.

33.

A copy of BackGrid's Copyright Registration Number VA0002106064, for a collection of photographs of Kim Kardashian and Kanye West, is attached as Exhibit Y.

34.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002106064 is attached as Exhibit Z.

35.

A copy of BackGrid's Copyright Registration Number VA0002136885, for a collection of photographs of Beyonce and Blue Ivy leaving an event in L.A., is attached as Exhibit AA.

36.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002136885 is attached as Exhibit AB.

37.

A copy of BackGrid's Copyright Registration Number VA0002146401, for a collection of photographs of Joanna Gaines and Jennifer Lopez in Malibu, is attached as Exhibit AC.

38.

A copy of the deposit copy submitted in connection with the application for Registration Number VA0002146401 is attached as Exhibit AD.

39.

BackGrid applied for registration of each of the above described photographs within 90 days of its first publication.

Defendants and Their Willful Infringing Activity

40.

Through its various corporate entities and media outlets, Cox posted online copies of each of the copyrighted photos reflected in Exhibits A through AD. Copies of the infringing posts are attached as Exhibits AE through AS.

41.

Cox did not seek or obtain a license with respect to any of the copyrighted works it appropriated for itself.

42.

Cox previously had infringed another copyright and reached a confidential resolution of that dispute with a predecessor of BackGrid. Thus, at the time of the infringements that are the subject of this action, Cox was aware of BackGrid, and of the fact that BackGrid's photographs were subject to copyright protection. Further, BackGrid notified Cox of its infringing conduct more than one year ago, but the infringement continued. BackGrid's agent for copyright enforcement sent Cox a letter on January 11, 2018, notifying Cox that it was not authorized to post photographs covered by Copyright Registration Numbers VA0002078340, VA0002050055, VA0002050271, VA0002066791, and VA0002086933. Defendant acknowledged the letter and removed the photos, but it continued to use

BackGrid's images as recently as January 24, 2019. As a result, Cox's infringements were and are willful.

FIRST CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002078340)

43.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

44.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit A, consisting of material that is original and copyrightable under the laws of the United States.

45.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyrights by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photographs, as evidenced by Exhibit AE.

46.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

47.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

SECOND CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002050055)

48.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

49.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit C, consisting of material that is original and copyrightable under the laws of the United States.

50.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AF.

51.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

52.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

THIRD CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002050271)

53.

BackGrid repeats, realleges, and incorporates by reference the allegations of

paragraphs 1 through 42 of this Complaint as though set forth fully here.

54.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit E, consisting of material that is original and copyrightable under the laws of the United States.

55.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photographs, as evidenced by Exhibit AG.

56.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

57.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000 for each of the eight copyrighted works covered by Registration Number VA0002050271 that Cox infringed.

FOURTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002066791)

58.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

59.

BackGrid owns all rights, title, and interest in and to the copyright

registration attached as Exhibit G, consisting of material that is original and copyrightable under the laws of the United States.

60.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photographs, as evidenced by Exhibit AH.

61.

Cox used the copyrighted works without BackGrid's permission, license, or consent.

62.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000 for each of the two copyrighted works covered by Registration Number VA0002066791 that Cox infringed.

FIFTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002086933)

63.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

64.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit I, consisting of material that is original and copyrightable under the laws of the United States.

65.

Cox has directly, vicariously, contributorily and/or by inducement willfully

infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AI.

66.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

67.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

SIXTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002020213)

68.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

69.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit K, consisting of material that is original and copyrightable under the laws of the United States.

70.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photographs, as evidenced by Exhibit AJ.

71.

Cox used the copyrighted works without BackGrid's permission, license, or consent.

72.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000 for each of the two copyrighted works covered by Registration Number VA0002020213 that Cox infringed.

SEVENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002049672)

73.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

74.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit M, consisting of material that is original and copyrightable under the laws of the United States.

75.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AK.

76.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

77.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to

\$150,000.

EIGHTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002050264)

78.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

79.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit O, consisting of material that is original and copyrightable under the laws of the United States.

80.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AL.

81.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

82.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

NINTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002050308)

83.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

84.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit Q, consisting of material that is original and copyrightable under the laws of the United States.

85.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AM.

86.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

87.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

TENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002058261)

88.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

89.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit S, consisting of material that is original and copyrightable under the laws of the United States.

90.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AN.

91.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

92.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

ELEVENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002069876)

93.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

94.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit U, consisting of material that is original and copyrightable under the laws of the United States.

95.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AO.

96.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

97.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

TWELFTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002084015)

98.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

99.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit W consisting of material that is original and copyrightable under the laws of the United States.

100.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AP.

101.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

102.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

THIRTEENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002106064)

103.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

104.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit Y, consisting of material that is original and copyrightable under the laws of the United States.

105.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AQ.

106.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

107.

Cox's willful infringement damaged BackGrid in an amount according to

proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

FOURTEENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002136885)

108.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

109.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit AA, consisting of material that is original and copyrightable under the laws of the United States.

110.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AR.

111.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

112.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

FIFTHTEENTH CLAIM FOR RELIEF

(Infringement of Copyright Registration Number VA0002146401)

113.

BackGrid repeats, realleges, and incorporates by reference the allegations of paragraphs 1 through 42 of this Complaint as though set forth fully here.

114.

BackGrid owns all rights, title, and interest in and to the copyright registration attached as Exhibit AC, consisting of material that is original and copyrightable under the laws of the United States.

115.

Cox has directly, vicariously, contributorily and/or by inducement willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and using certain of BackGrid's copyrighted photograph, as evidenced by Exhibit AS.

116.

Cox used the copyrighted work without BackGrid's permission, license, or consent.

117.

Cox's willful infringement damaged BackGrid in an amount according to proof, and at a minimum BackGrid is entitled to statutory damages of up to \$150,000.

PRAYER FOR RELIEF

Therefore, BackGrid requests judgment against Cox as follows:

1.

That Cox, and its officers, agents, servants, employees, and representatives, and all persons in active concert or participation with them, be permanently

enjoined from copying, reproducing, displaying, promoting, advertising, distributing, or selling, or any other form of dealing or transaction in, any and all of the copyrighted photographs that are the subject of this action;

2.

That Cox be ordered to account for all profits, income, receipts or other benefits it derived from the unlawful reproduction, copying, display, promotion, distribution, or sale of products and services, or other media, that improperly or unlawfully infringe the asserted copyrights pursuant to 17 U.S.C. §§ 504 (a)(1) & (b);

3.

For actual damages and disgorgement of all profits Cox derived from its copyright infringement, under 17 U.S.C. §§ 504 (a)(1) & (b);

4.

For statutory damages for copyright infringement, including willful infringement, in accordance with 17 U.S.C. §§ 504(a)(2) & (c);

5.

For reasonable attorneys' fees pursuant to 17 U.S.C. § 505;

6.

For costs and interest pursuant to 17 U.S.C. §§ 504 (a)(1) & (b), 17 U.S.C. § 505; and

7.

For such other and further relief that the Court deems just and proper.

Respectfully submitted this 18th day of July, 2019.

MILLER & MARTIN

/s/ Eileen Hintz Rumfelt

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Attorneys for Plaintiff, Backgrid USA, Inc.

DEMAND FOR JURY TRIAL

Plaintiff BackGrid USA, Inc. demands trial by jury of all issues so triable under the law.

Respectfully submitted this 18th day of July, 2019.

MILLER & MARTIN

/s/ Eileen Hintz Rumfelt

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